Department of Consumer Protection

Testimony of William M. Rubenstein
Commissioner of Consumer Protection

Public Health Committee Public Hearing
March 15, 2013

HB 6519, "An Act Concerning the Labeling of Genetically Engineered Food"

Sen. Gerratana, Rep. Johnson, Sen. Welch, Rep. Srinivasan and honorable members of the Public Health Committee. I am William Rubenstein, Commissioner of Consumer Protection. Thank you for allowing me the opportunity to submit testimony regarding House Bill 6519, "An Act Concerning the Labeling of Genetically Engineered Food."

We have reviewed the bill and although it is a well-intentioned proposal, the Department has some concerns about the provisions as well as possible unintended consequences that we wish to bring to the committee's attention.

First, it is important to acknowledge that uniformity in food and agricultural product labeling has encouraged interstate commerce and lessened the barriers to trade in the United States. This in turn has generated efficiencies in the growth and production of those commodities. This proposal, if enacted would strike at the uniformity model by mandating labeling requirements that are not currently required by other States.

This proposal would then place an undue burden on Connecticut's agriculture and food producers. According to The University of Connecticut's 2010 study "Economic Impacts of Connecticut's Agricultural Industry" which encompasses agricultural production and processing, the total impact of Connecticut's agricultural industry has increased to $3.5 billion annually. The report also states that 20,000 jobs are directly connected to the agricultural industry statewide. At a time when there is much renewed interest in locally grown and produced products, it seems counterproductive to enact a law that may impose extra burdens on local processors, producers and growers.

Examples of disadvantages for local entities appear in different stages of the food growing and food producing levels. For example, a Connecticut producer of tomato based sauces or salsas marketing its "Connecticut grown" products to Connecticut consumers may purchase its tomato seeds from an out of state supplier which is not required to test for GMO compliance. The Connecticut producer would likely have to pay for testing of those seeds to ensure that they are GMO free. This is a costly step; and that cost would be passed onto Connecticut consumers.

We are also concerned about a similar effect this bill could have on feed and livestock and ultimately on the local production of meat and poultry producers. As an example, organic animals must eat organic feed but this also imposes a cost above conventional feed and has the potential to adversely affect the cost structure of Connecticut producers.

In another example, a Connecticut farmer growing products in compliance with non-GMO principles could sustain an inadvertent level of GMO in his product through the well-known occurrence of "drift" from one field to another. To be in compliance with the proposed bill, all Connecticut farmers may have to test their products after every harvest to ensure that "drift" hasn't inadvertently occurred. That is an additional cost that Connecticut farmers producing for both Connecticut and out-of-state markets will incur. As a result, Connecticut farmers competing with out-of-state competitors for out-of-state markets will be at a cost disadvantage.

Significantly, this proposal could lead to Connecticut consumers seeing fewer product choices on their grocers' shelves. Food producers—both large and small—may find it cost-prohibitive to test for, certify and label their products solely for the Connecticut marketplace. Producers may simply make the business decision to avoid those burdens and by-pass Connecticut, which would harm both retailers and consumers by reducing the number of products brought into our market.

Finally, Section 3 of the bill contains a new labeling requirement that appears to violate the labeling requirements under the Federal Food, Drug and Cosmetic Act as amended by the Nutrition Labeling and Education Act. The provisions of this Federal Act [*21 USC Section 343-1 National uniform nutrition labeling, subsection (a)(2)*] pre-empts states from requiring food product label information "that is not identical" with labeling information currently required by the Federal Food Drug and Cosmetic Act (FD&C). GMO labeling to our knowledge is not currently required by the FD&C and would possibly open up the State to litigation from impacted growers and producers.

The Department wishes to acknowledge the well-intentioned efforts of proponents of this legislation to increase the level of transparency in food processing for the benefit of Connecticut's consumers. However, for the reasons expressed above, the Department can not support the bill at this time.

Thank you for your consideration of this testimony. Please feel free to contact me, or the Department's Legislative Program Manager, Gary Berner (860-713-6208), if you have any questions.